IN THE HIGH COURT OF BOMBAY AT GOA.

FIRST APPEAL NO.7 OF 2002

1. Special Land Acquisition Officer
(South Goa) Konkan Railway
Corporation Limited,
Amey Guest House,
Davorlim Road,
P.O. Navelim,
Salcete Goa, 403 707.

2. Chief Engineer,
Konkan Railway Corporation Ltd.,
Rawnfond,
near Margao Railway Station,
Margao Goa. ... Appellants.

V/s

1. Babu Datta Naik Dessai
since deceased represented by
his Lrs.
1(i) Prabhavati Babu Naik Dessai
1(ii) Shailesh Babu Dessai
1(iii) Sarita Shailesh Dessai
1(iv) Rajesh Babu Dessai
1(v) Shoba Rajesh Dessai
1(vi) Dinesh Babu Dessai
1(vii) Anjani Dinesh Dessai
All residents of Chaudi,
Canacona, Goa. ... Respondents.

Mr. E. Afonso, Advocate for the appellants.

Mr. P.A. Kamat, Advocate for the legal representatives of respondent.

CORAM: A.P. LAVANDE, J.

DATE: 4TH MAY, 2005.

ORAL JUDGMENT

The appellants challenge the judgment and award dated 31.8.2001 passed by the Additional District Judge, South Goa, Margao in Land Acquisition No.101/95.

2. By Notification dated 12.08.1991 issued under Section 4 of the Land Acquisition Act (the Act for short) the Government acquired for Konkan Railway Corporation Ltd. large chunks of land situated at Chaudi, Canacona. Property bearing survey no. 85/2 admeasuring 1250 square metres belonging to the respondent Babu Datta Naik Dessai (deceased), the original applicant before the reference Court, was part of the acquired land. The said land was paddy field. The Special Land Acquisition Officer by his award dated 22.12.1993 awarded Rs.9/- for the acquired land. Aggrieved by the said award, the original applicant sought reference under Section 18 of the Land Acquisition Act and claimed compensation of Rs.120/- per square metre. The reference Court relying upon the Award dated 15th March 1989 (Exhibit AW1/C) fixed the compensation in respect of the acquired land at the rate of Rs.24/- by giving 10%,

increase per year on compounding basis from the date of the Award dated 15th March 1989 (Exhibit AW1/C).

3. Mr. Afonso, learned Counsel appearing for the appellants submitted that the reference Court ought not to have relied upon the Award dated 15th March 1989 (Exhibit AW1/C) and that in any case the reference Court ought not to have granted increase of 10% per year since the acquired land was paddy field having no building potential. The learned Counsel further submitted that the original applicant had neither led any evidence of any development during the years preceding Section 4 Notification around the acquired land nor led any evidence to prove that the prices of paddy fields increased by 10% every year.

4. Per contra, Mr. Kamat appearing for the respondents submitted that the reference Court was absolutely justified in placing reliance on the Award dated 15th March 1989 (Exhibit AW1/C) since it was in respect of the similar lands in close proximity of the acquired land. The learned Counsel further submitted that the Apex Court has consistently held that increase of 10% on compounding basis has to be granted in fixing the market rate.

5. I have considered the submissions made by the learned Counsel appearing for the parties. Since the Award dated 15th March 1989 (Exhibit AW1/C) was in respect of the similar lands in close proximity of the acquired land, in my opinion, the reference Court was absolutely justified in relying upon the said Award dated 15th March 1989 (Exhibit AW1/C) and fix the market value of the acquired land in April 1986 at Rs.15/- per square metre which was the compensation fixed for paddy fields in the said Award. In so far as the increase of 10% per year granted by the reference Court, I have already held in a number of connected appeals that having regard to the fact that the acquired land is a paddy field and situated at Chaudi, Canacona and also having regard to the fact there is absolutely no evidence led about any development around the acquired land during the years preceding Section 4 Notification, increase of 5% and not 10% per year would be justified. Accordingly, by giving increase of 5% every year the market rate of the acquired land works out to Rs.18.75 per square metre. I deem it appropriate to round it up to Rs.19/- per square metre. Accordingly I hold that the compensation payable in respect of the acquired land is Rs.19/- per square metre. Needless to mention that the respondents are entitled to all the statutory benefits under the

Act.

6. In view of the above discussion, the appeal is partly allowed and the Award passed by the Reference Court stands modified accordingly. Having regard to the facts and circumstances of the case, the parties are directed to bear their own costs.

A.P. LAVANDE, J.

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